

State of New Jersey
Department of Labor and Workforce Development
Board of Review

MEMORANDUM

To: Cornelia Calderone, Chair, Joseph Sieber,
Vice Chairman, and Frank Serico, Member

From: Gerald Yarbrough, Executive Secretary
Board of Review

Subject: Minutes of the May 17, 2006
Board of Review Meeting

Date: May 23, 2006

THESE MINUTES HAVE NOT BEEN FORMALLY APPROVED AND ARE SUBJECT TO CHANGE OR MODIFICATION BY THE BOARD OF REVIEW AT ITS NEXT MEETING. NO DECISION OF THE BOARD OF REVIEW IS FINAL UNTIL IT HAS BEEN MAILED TO THE INTERESTED PARTIES.

1. **FORMAL OPENING:** A regular meeting of the Board of Review, Department of Labor was held on Wednesday, May 17, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7th Floor, Large Conference Room, Trenton, New Jersey. Notice of said meeting was posted in the Board of Review's office, filed with the Secretary of State, and published annually in *The Trenton Times* and *The Star Ledger*. It was noted that the next regular meeting of the Board of Review is scheduled for Wednesday, May 24, 2006 at 9:00 a.m. at the Board of Review offices, Labor Building, John Fitch Plaza, 7th Floor, Large Conference Room, Trenton, New Jersey.

Roll Call: Present: Ms. Calderone, Chair
Mr. Sieber, Vice Chair
Mr. Serico, Member
Mr. Yarbrough, Executive Secretary

2. Following a motion by Mr. Serico and seconded by Mr. Sieber, the minutes of the May 10, 2006 meeting were approved.

3. Old Business

(a) 99,057, 102, 003

The matters were previously discussed and involved a claimant who was held disqualified for benefits under N.J.S.A. 43:21-5(a) (docket no. 99,057) and liable to repay benefits (docket no. 102,003) After further discussion the Board determined that the claimant's subsequent earnings and remuneration in lieu of notice was sufficient to toll the disqualification under N.J.S.A. 43:21- 5(a). As a result, the Board voted to modify and reverse the Appeal Tribunal respectively.

4. New Business

(a) 86,925

Ms. Keller presented this case of a claimant who was suspended by the employer for retaining a firearm used in the course of his duties, while he was under a restraining order regarding a domestic matter. The Appeal Tribunal had held the claimant not disqualified under N.J.S.A. 43:21-5(b). The Board noted that the record did not support the conclusion and the claimant was not put on notice that his suspension could constitute gross misconduct connected with the work. As a result, the Board voted to remand the case for additional testimony as well as to put the claimant on notice of gross misconduct. Ms. Keller will prepare the remand.

(b) 93,052

Mr. Sieber described this case that involved a claimant who was employed as a sales coordinator and went on a maternity leave of absence. When the claimant returned to work she was assigned substantially more work, which she felt was abnormal. The claimant consulted with her supervisor about the conditions, to no avail. As a result, the claimant accepted incentives from the employer to leave work. The Appeal Tribunal had held the claimant disqualified for benefits under N.J.S.A. 43:21-5(a). The Board noted that the claimant's testimony regarding abnormal conditions is uncontroverted. As a result, the Board voted to reverse the appeal Tribunal. Mr. Sieber will prepare the decision.

(c) 65, 218

As described by Mr. Sieber, this case involved a claimant who was employed as a medical assistant, became disabled and received State Plan disability benefits. The claimant submitted medical documentation to the employer that she was unable to work until January 3, 2005, but remained unable to work until January 21, 2005. The claimant did not contact the employer when she was able to work. She filed a claim for unemployment as of January 9, 2005. The Appeal Tribunal had held the claimant not disqualified for benefits under N.J.S.A. 43:21-5(a) and (c) and ineligible for benefits from January 9, 2005 through January 22, 2005 under N.J.S.A. 43:21-4(c). The Board noted that the claimant showed the intent to sever the employer - employee relationship when she did not contact the employer after her period of disability. As a result, the claimant left work without good cause attributable to the work. The Board voted to modify the Appeal Tribunal holding the claimant disqualified under N.J.S.A. 43:21-5(a). Mr. Sieber will prepare the decision.

There being no further business to transact, a motion was made by Mr. Sieber to adjourn the meeting. Mr. Serico seconded the motion.

SUBMITTED FOR APPROVAL:

Gerald Yarbrough
Executive Secretary

GY:gs